



# Care of Cathedrals Measure 2011

## 2011 No. 1

### PART 2

#### APPROVAL FOR WORKS TO CATHEDRALS AND APPROVAL BODIES

##### *Approval Required for Alterations to Cathedrals*

## 2 Approval required for alterations to cathedrals

- (1) Subject to subsection (2) and to sections 5 and 6 the Chapter of a cathedral shall not, unless it has been approved under this Measure, implement or consent to the implementation of any proposal—
- (a) for the carrying out of works, including works of repair or maintenance, on, above or below land the fee simple in which is vested in the corporate body, being works which would materially affect—
    - (i) the architectural, archaeological, artistic or historic character of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
    - (ii) the immediate setting of the cathedral church, or
    - (iii) any archaeological remains in or under the cathedral church or within its precinct, or
    - (iv) any human remains in or under the cathedral church or within its precinct, or
  - (b) for the sale, loan or other disposal of any object the property in which is vested in the corporate body or which is in the possession or custody of the corporate body or to whose possession or custody the corporate body is entitled, being an object of architectural, archaeological, artistic or historic interest, including any object to which section 7 applies, or
  - (c) for the carrying out of any work to any such object as is referred to in paragraph (b) which would materially affect the architectural, archaeological, artistic or historic character of the object, or

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- (d) for the permanent addition to the cathedral church of any object which would materially affect the architectural, archaeological, artistic or historic character of the cathedral church.
- (2) Subsection (1) shall not apply in relation to anything which—
- (a) is done by the Chapter in furtherance of its duties under the constitution and statutes of the cathedral church with respect to the ordering of services or otherwise in furtherance of the mission of the cathedral church,
  - (b) is of a temporary nature, and
  - (c) does not materially affect the fabric of the cathedral church.
- (3) Where a proposal has been implemented in contravention of this section, anything done in connection with that implementation may be approved under this Measure and, in that event, shall be deemed to have been done in compliance with this section.

**Commencement Information**

**II** S. 2 in force at 1.9.2011 by 2011 No. 2, art. 2

*Establishment and Functions of the Cathedrals  
Fabric Commission and Fabric Advisory Committees*

**3 The Cathedrals Fabric Commission for England**

- (1) There shall continue to be a body called the Cathedrals Fabric Commission for England (in this Measure referred to as “the Commission”) which shall have the functions assigned to it by this Measure.
- (2) It shall be the duty of the Commission—
- (a) to give advice to the Chapter of a cathedral, and to the fabric advisory committee, on the care, conservation, repair or development of the cathedral church, any archaeological or human remains in or under the cathedral church or within its precinct, any buildings within its precinct, the landscape and environment in which the cathedral church is situated and any objects referred to in section 2(1)(b);
  - (b) to give advice to bishops and to the Vicar-General's court when it is sought under section 17 or 20;
  - (c) to consider and determine any application made to it in accordance with the provisions of this Measure by the Chapter of a cathedral;
  - (d) to promote co-operation between the Commission and organisations concerned with the care and study of buildings of architectural, archaeological, artistic or historic interest in England;
  - (e) to assist the Chapters of cathedrals by participating in educational and research projects which in the view of the Commission will promote the care, conservation, repair or development of cathedral churches and their ancillary buildings; and
  - (f) to maintain jointly with the Church Buildings Council, a library of books, plans, drawings, photographs and other material relating to cathedral and other churches and the objects in them.

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- (3) It shall also be the duty of the Commission to promote, in consultation with Chapters, fabric advisory committees and such other persons or organisations as it thinks fit, by means of guidance or otherwise, standards of good practice to be observed in relation to—
- (a) the matters referred to in subsection (2)(a);
  - (b) the role and duties of cathedral architects or surveyors of the fabric and cathedral archeologists;
  - (c) the compilation, maintenance and dissemination of information of architectural, archaeological, artistic and historic interest concerning cathedral churches, archaeological remains in or under them or within their precincts and buildings within the precincts and any objects referred to in section 2(1)(b); and
  - (d) the form and content of the records required to be kept by the Chapter under section 27.
- (4) Schedule 1 shall have effect with respect to the Commission.

**Commencement Information**

**I2** S. 3 in force at 1.9.2011 by 2011 No. 2, art. 2

**4 Establishment of fabric advisory committees**

- (1) The Chapter of every cathedral and the Commission shall jointly establish a committee, to be called the fabric advisory committee, which shall have the functions assigned to it by this Measure.
- (2) It shall be the duty of the fabric advisory committee—
- (a) to give advice to the Chapter of the cathedral on the care, conservation, repair or development of the cathedral church, any archaeological remains in or under the cathedral church or within its precinct, any buildings within its precinct, the landscape and environment in which the cathedral church is situated and any objects referred to in section 2(1)(b); and
  - (b) to consider and determine any application made to it in accordance with the provisions of this Measure by the Chapter of the cathedral.
- (3) Schedule 2 shall have effect with respect to fabric advisory committees.

**Commencement Information**

**I3** S. 4 in force at 1.9.2011 by 2011 No. 2, art. 2

**5 Powers of fabric advisory committee in relation to application of section 2**

- (1) The fabric advisory committee shall have power—
- (a) if requested to do so by the Chapter, to determine whether, under section 2(1), an application for approval of a proposal by the Chapter is required to be made; and
  - (b) after consultation with the Chapter and subject to the agreement of the Commission, to determine that section 2 is not to apply to proposals of any

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class or description specified by the committee and to vary or revoke any determination made under this paragraph.

- (2) If the Chapter wishes to have it determined whether a proposal is one to which section 2 does not apply by virtue of subsection (1)(b) the fabric advisory committee shall have power to determine that question.
- (3) Where the Commission has made a determination under section 6(2) in relation to any matter, the fabric advisory committee shall not make a determination under subsection (1)(a) in relation to the same matter.

#### **Commencement Information**

**I4** S. 5 in force at 1.9.2011 by 2011 No. 2, art. 2

### *Application for Approval*

## **6 Body to which application for approval to be made**

- (1) Any application for approval for a proposal shall be made to the Commission where—
  - (a) the proposal would involve—
    - (i) the carrying out of works, including works of repair or maintenance, which would permanently alter the fabric of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
    - (ii) the demolition of any part of the cathedral church or any such building, or
    - (iii) the disturbance or destruction of any archaeological or human remains in or under the cathedral church or within its precinct, or
    - (iv) the sale, loan or other disposal of or the carrying out of any work to any object for the time being designated under section 24(4) in relation to the cathedral church as being of outstanding architectural, archaeological, artistic or historic interest, or
  - (b) the Commission declares in writing that the proposal gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by it;

and any application for approval for any other proposal other than an application under section 7(4)(a) shall be made to the fabric advisory committee.
- (2) If the Chapter or the fabric advisory committee wishes to have it determined whether under subsection (1) an application for approval is required to be made to the committee or to the Commission, the Commission shall have power to determine that question.
- (3) If the Commission considers that a proposal falls within subsection (1)(a), but that the proposal does not give rise to considerations of sufficient importance to require an application to be considered by it, it may make a declaration in writing to that effect and any application for approval of the proposal shall be made instead to the fabric advisory committee.
- (4) The Commission shall also have power, subject to subsection (5), to determine that subsection (1)(a) shall not apply to proposals of any class or description specified by

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the Commission in relation either to cathedrals generally or to such cathedrals as may be specified.

- (5) Before making a determination under subsection (4), the Commission shall consult any relevant Chapter and any relevant fabric advisory committee, English Heritage, the national amenity societies (or such person as the societies shall jointly appoint for the purposes of this section) and, in the case of a proposal described in section 2(1)(a), any relevant local planning authority.
- (6) Any application for approval of a proposal specified by the Commission under subsection (4) shall be made instead to the fabric advisory committee.
- (7) The Commission may revoke or vary any determination under subsection (4).
- (8) If, following a request in writing from the Chapter of a cathedral, the Commission is satisfied—
  - (a) that a proposal or intended proposal falls within section 2(1)(a)(ii) or (iii) but does not fall within section 2(1)(a)(iv);
  - (b) that the proposal does not relate to the cathedral church itself or a building within the precinct of the cathedral church for the time being used for ecclesiastical purposes;
  - (c) that planning permission, listed building consent or scheduled monument consent is required for the carrying out of all the works to which the proposal relates; and
  - (d) that any considerations relevant to preserving the immediate setting of the cathedral church or any archaeological remains in or under the cathedral church or within its precinct will be or have been adequately taken into account by the person or body responsible for granting the permission or consent;

the Commission may, after consulting the local planning authority, the fabric advisory committee and English Heritage, make a declaration in writing that no approval is required under this Measure for the proposal.

- (9) In subsection (8) “planning permission”, “listed building consent” and “scheduled monument consent” have the meanings respectively assigned to them by section 336(1) of the Town and Country Planning Act 1990 (c. 8), section 8(7) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) and section 2(3)(a) of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46).
- (10) Where—
  - (a) an application has been made to the fabric advisory committee by virtue of subsection (1) (not being an application in respect of which a determination has been made under subsection (2)), and
  - (b) at least three members of the committee present and voting determine that the proposal in question gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by the Commission,

the secretary of the committee shall refer the application to the Commission and shall notify the Chapter accordingly; and section 9 shall apply to that application.

- (11) Any application for approval in pursuance of section 2(3) shall be made to the Commission.

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- (12) Any application under this section shall be made in accordance with rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1).

**Commencement Information**

**I5** S. 6 in force at 1.9.2011 by 2011 No. 2, art. 2

**7 Treasure**

- (1) This section applies to any object which would, but for an order under section 2(2) of the Treasure Act 1996 (c. 24), be treasure within the meaning of that Act and which is found in or under the cathedral church or within its precinct.
- (2) Where the administrator of the cathedral becomes aware that an object has been discovered which appears to be an object to which this section applies the administrator—
- (a) shall within 14 days notify the Commission in writing of the discovery; and
  - (b) shall arrange for the object to be recorded in the inventory required to be compiled and maintained under section 24 and designated as treasure in that inventory in accordance with directions issued by the Commission.
- (3) On receipt of a notification under subsection (2) the secretary of the Commission shall report the discovery, in writing, to the Secretary of State or to such a person or body as may be designated by the Secretary of State.
- (4) The Chapter of the cathedral shall—
- (a) before implementing any proposal for the sale, loan or other disposal of an object to which this section applies, apply to the Commission for approval, unless the Commission's approval is required under section 6; and
  - (b) before implementing any proposal for the sale or other disposal (other than a loan) of such an object, afford the British Museum or another registered museum nominated by the British Museum an opportunity of purchasing the object.
- (5) Rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 may prescribe the procedure to be followed in connection with any matters arising under this section and in particular shall make provision for determining the purchase price to be paid under subsection (4)(b) and for the procedure for and the matters to be taken into account in arriving at the purchase price.
- (6) In subsection (4)(b) “registered museum” has the meaning ascribed to it in the Code of Practice issued under section 11 of the Treasure Act 1996 or such other meaning as may be specified by the Secretary of State.

**Commencement Information**

**I6** S. 7 in force at 1.9.2011 by 2011 No. 2, art. 2

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## 8 Applications for approval of fabric advisory committee

- (1) Where any application is made by the Chapter of a cathedral for the approval of the fabric advisory committee, the administrator shall display in the prescribed manner a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the committee before the end of the prescribed period; and the administrator shall also send such a notice—
  - (a) to the Commission, and
  - (b) if the application relates to a proposal of a kind described in section 2(1)(a)—
    - (i) to English Heritage,
    - (ii) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and
    - (iii) to the local planning authority.
- (2) After considering any representations made to it under this section, the fabric advisory committee shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.
- (3) The secretary of the fabric advisory committee shall send a notice of the committee's decision—
  - (a) to the Chapter of the cathedral,
  - (b) to the Commission, and
  - (c) to any body or person to whom notice of the application is required to be sent by virtue of subsection (1)(b),and the administrator of the cathedral shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.

### Commencement Information

I7 S. 8 in force at 1.9.2011 by 2011 No. 2, art. 2

## 9 Applications for approval of Cathedrals Fabric Commission

- (1) Where any application is made by the Chapter of a cathedral for the approval of the Commission, the administrator shall—
  - (a) display in the prescribed manner, and
  - (b) send to the fabric advisory committee, English Heritage and the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section),  
a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the Commission before the end of the prescribed period; and, if the application relates to a proposal of a kind described in section 2(1)(a), the administrator shall also send such a notice to the local planning authority.
- (2) Following receipt of the notice referred to in subsection (1), the secretary of the fabric advisory committee shall inform the Commission in writing whether the committee has considered the proposal and, if so, of its views.

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- (3) After considering any representations made to it under this section, the Commission shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.
- (4) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv), the Commission may consult the Church Commissioners on any financial considerations (other than any which relate to the valuation of the object in question) which may be relevant to the proposal and on which the Commission considers it appropriate to receive the advice of the Church Commissioners and the Church Commissioners shall give such advice as they consider appropriate.
- (5) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv), the Commission may request the Chapter of the cathedral to—
  - (a) consult the Council of the cathedral if it has not already done so; and
  - (b) inform the Commission of the Council's views on the proposal.
- (6) If a meeting is arranged between the Commission and the Chapter of the cathedral to discuss the proposal, the administrator shall notify the secretary of the fabric advisory committee of the meeting and the committee's representatives shall be entitled to be present at the meeting.
- (7) The secretary of the Commission shall send notice of the Commission's decision—
  - (a) to the Chapter of the cathedral,
  - (b) to the fabric advisory committee,
  - (c) to English Heritage,
  - (d) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and
  - (e) if the decision relates to a proposal of a kind described in section 2(1)(a), to the local planning authority,
  - (f) if the Commission has consulted the Church Commissioners on the proposal under subsection (4), to the Church Commissioners,
 and the administrator shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.
- (8) This section shall apply in relation to an application for approval in pursuance of section 2(3) as it applies in relation to an application for approval of a proposal.

**Commencement Information**

**I8** S. 9 in force at 1.9.2011 by 2011 No. 2, art. 2

*Appeals*

**10 Appeals to Cathedrals Fabric Commission**

- (1) Where, on an application made by the Chapter for the approval of the fabric advisory committee, approval is refused or is given subject to conditions, the Chapter may within the prescribed period appeal to the Commission.



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- (2) Where, on an application made by the Chapter for the approval of the fabric advisory committee, the application is not determined by the fabric advisory committee with the period of 3 months immediately following the making of the application, the Chapter may, by notice given within the prescribed period to the Commission, request that the application be dealt with by the Commission.
- (3) The Commission, on considering an appeal under subsection (1), may reverse, confirm or vary the decision of the fabric advisory committee or any part of it.
- (4) The Commission, on dealing with an application for approval under subsection (2), shall, after considering any representations made to the fabric advisory committee under section 8, determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval; and any such determination shall have effect as if it had been given by the fabric advisory committee, except that subsection (1) shall not apply in respect of the determination.

#### Commencement Information

**19** S. 10 in force at 1.9.2011 by 2011 No. 2, art. 2

## 11 Commission of Review

- (1) Where—
  - (a) on an application for approval made to the Commission (including an application being dealt with by the Commission under section 10(2)), the Commission refuses to give its approval or gives approval subject to conditions, or
  - (b) on an appeal to the Commission under section 10(1), the Commission refuses to give its approval or refuses to reverse or vary conditions subject to which approval was given by the fabric advisory committee,the Chapter may, by notice given within the prescribed period to the registrar of the province in which the cathedral church is situated, request that the decision of the Commission be reviewed by a Commission of Review constituted under this section.
- (2) Where, on an application for approval made to the Commission (including an application being dealt with by the Commission under section 10(2) or on an appeal to the Commission under section 10(1)), the application or appeal is not determined by the Commission within the period of 3 months immediately following the end of the period prescribed for the purposes of section 9 or 10(1) or (2), as the case may be, the Chapter may, by notice given within the prescribed period to the registrar of the province in which the cathedral church is situated, request that the application or appeal be dealt with by a Commission of Review constituted under this section.
- (3) A Commission of Review shall be constituted of—
  - (a) the Dean of the Arches and Auditor or a person appointed by him or her, being a person who is qualified under section 3(3) of the Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1) to be appointed Dean of the Arches and Auditor;
  - (b) one person appointed by the Archbishops of Canterbury and York, being a person who is or has been a dean, provost or residentiary canon of a cathedral church other than the cathedral church to which the application or appeal relates; and

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- (c) one person appointed by the Secretary of State, being a person who has special knowledge of the architecture, archaeology, art (including history of art) or history of cathedral churches;  
 but no person who has been a member of the Cathedrals Fabric Commission at any time during the preceding 5 years shall be appointed under paragraph (b) or (c).
- (4) A Commission of Review, on reviewing a decision of the Cathedrals Fabric Commission, may reverse, confirm or vary that decision or any part of it.
- (5) A Commission of Review, on dealing with an application for approval under subsection (2), shall, after considering any representations made to the Commission under section 9, determine whether to give its approval either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval, and any such determination shall, subject to subsection (7), have effect as if it had been given by the Commission.
- (6) A Commission of Review, on dealing with an appeal under subsection (2), may reverse, confirm or vary the decision of the fabric advisory committee or any part of it.
- (7) The decision of a Commission of Review shall be final.

**Commencement Information**

**110** S. 11 in force at 1.9.2011 by [2011 No. 2](#), [art. 2](#)

**12 Conditions applying to approval**

- (1) Any approval given to an application under this Measure shall lapse at the expiry of the period of ten years from the date on which notice of the decision is given to the Chapter, provided that the body which gave the approval may extend that period by such period as it may specify.
- (2) As soon as possible after the completion of any work for which approval has been given, the administrator of the cathedral shall notify the fabric advisory committee or the Commission, as the case may be, of the date of the completion.
- (3) In subsection (1) the reference to the date on which notice of the decision is given shall, in the case of an appeal to the Commission under section 10(1) or an application for review by a Commission of Review under section 11(1), be construed as a reference to the date on which notice of the decision of the Commission or, as the case may be, of the Commission of Review, is given to the Chapter.
- (4) Subsection (1) shall apply to approvals given before 1st January 2008 as if for the reference to 10 years from the date referred to in that subsection there were substituted a reference to 1st January 2018.

**Commencement Information**

**111** S. 12 in force at 1.9.2011 by [2011 No. 2](#), [art. 2](#)

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### 13 Registers of applications

- (1) The Commission and any fabric advisory committee shall each keep a register, in the prescribed form, of applications for approval dealt with by them and shall make such arrangements as are prescribed—
  - (a) for inspection of the registers by any person;
  - (b) for the supply, on application by any person, of extracts of that part of the register which relates to an application for approval specified by that person;
  - (c) for enabling the Commission or a fabric advisory committee to supply, if it thinks fit, copies of the whole register or further parts of it, on application by any person.
- (2) The Commission or any fabric advisory committee may impose a fee of a reasonable amount for the supply of copies of or extracts from the register under subsection (1) and the amount charged may vary according to the circumstances.

#### Commencement Information

**I12** S. 13 in force at 1.9.2011 by 2011 No. 2, art. 2

### 14 Right of appeal by tenant

- (1) Where the Commission or a fabric advisory committee has refused approval for a proposal from a Chapter of a cathedral for the carrying out of works by a tenant for which the Chapter's consent is required or given approval subject to conditions, the tenant may, within the prescribed period and subject to subsection (2), appeal to the Commission (against a decision of a fabric advisory committee) or request that a decision of the Commission be reviewed by a Commission of Review constituted under section 11.
- (2) Subsection (1) applies whether or not the Chapter has appealed against the refusal or the imposition of conditions, or requested that the decision be reviewed by a Commission of Review, as the case may be.
- (3) A tenant who appeals or requests a review under subsection (1) shall give written notice of the appeal or review to the Chapter.
- (4) The Chapter shall be entitled to appear at the proceedings on any appeal or review under subsection (1).
- (5) Sections 10(3) and 11(4) shall apply to an appeal or review under subsection (1) as they apply to an appeal or review under those sections.

#### Commencement Information

**I13** S. 14 in force at 1.9.2011 by 2011 No. 2, art. 2

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